



KLESTADT
WINTERS
JURELLER
SOUTHARD &
STEVENS, LLP

200 WEST 41ST STREET
17TH FLOOR
NEW YORK, NY 10036-7203
TELEPHONE (212) 972-3000
TELEFAX (212) 972-2245
WWW.KLESTADT.COM

KATHLEEN M. AIELLO
DIRECT: 646-998-7530
EMAIL: KAIELLO@KLESTADT.COM

January 5, 2024

BY ECF

The Honorable Judge Kenneth M. Karas
United States District Court
Southern District of New York
300 Quarropas Street, Chambers 533
White Plains, New York 10601-4150

RE: Kenwood Commons, LLC, v. Guild Investment Group, LLC (Case No. 23 CV 02288 (KMK)); On Appeal From In re Kenwood Commons, LLC, Debtor; U.S.B.C. S.D.N.Y. (Case No. 22-35169 (SHL))

Dear Honorable Judge Karas,

We are counsel for Fred Stevens (the “Trustee” or the “Appellant”), Chapter 7 Trustee of the estate of Kenwood Commons, LLC (the “Debtor”), which case is pending before the Honorable Judge Sean H. Lane, in the United States Bankruptcy Court for the Southern District of New York (the “Bankruptcy Court”). We write to the Court with regard to the above-referenced appeal of a Bankruptcy Court decision (the “Appeal”), which the District Court has now set for Oral Argument on January 11, 2024 at 10:30 a.m. (the “Hearing”).

By way of background, the Debtor filed a bankruptcy petition under Chapter 11 of the Bankruptcy Code on March 28, 2022 (the “Petition Date”). The Debtor continued to be a debtor-in-possession, operating and maintaining its own business and property until July 7, 2023 (the “Conversion Date”), when the Debtor’s case was converted from Chapter 11 to Chapter 7 and Mr. Stevens was appointed as the Debtor’s Chapter 7 Trustee. After the Petition Date but before the Conversion Date, the Bankruptcy Court entered the *Order Granting Application by Prepetition Secured Lender for an Order Authorizing it to Continue State Court Foreclosure Action in Accordance with 11 U.S.C. § 362(d)(3)*, dated February 7, 2023 (the “Bankruptcy Court Order”) [Bankr. Dkt. 90]. On or around February 21, 2023, the Debtor filed a notice of appeal of the Bankruptcy Court Order, commencing the instant Appeal [Bankr. Dkt. 94]. According to the docket for this Appeal, it appears that both parties had fully briefed the Appeal by June 13, 2023, prior to the Trustee’s appointment.

The Appeal is now set for oral argument next week; however, the Trustee writes this letter to request an adjournment of the Hearing for the following reasons. First, since the Trustee’s appointment he has been actively engaged in discussions with various parties, including the Appellee, to resolve a number of pending disputes and litigation matters and believes that any

Kenwood Commons, LLC v. Guild Investment Group, LLC

Case No. 23-CV-02288 (KMK)

January 5, 2024

Page -2-

additional time granted by this Court would permit the parties an opportunity to achieve a consensual resolution, that would likely include the matters raised in this Appeal. Second, since the briefing in this Appeal concluded, the disposition of the real property underlying certain of the issues in this Appeal has changed and the Trustee is discussing the impact of that change in disposition with various parties, including the Appellee, which may impact whether and how this Appeal can and will proceed. The Trustee is considering whether the change in disposition has mooted some of the issues on appeal. Third and finally, the Appellee has consented to the Appellant's request for an adjournment.

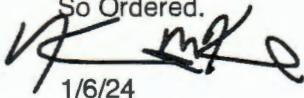
Therefore, the Appellant requests that the Hearing be adjourned for sixty (60) days (*i.e.*, March 11, 2024), subject to the Court's availability, so that it may address the aforementioned matters in an effort to resolve, or at least reduce, the remaining issues to be addressed in connection with this Appeal.

We thank the Court in advance for its attention to this matter and consideration of this request. Please contact the undersigned counsel if the Court has any questions regarding this Appeal or the request set forth herein.

Granted.

The oral argument is adjourned to 3/ 14 /24,
at 2:00 There will be no more adjournments.

So Ordered.



1/6/24

cc (by ECF and Email):

Fred Stevens, Chapter 7 Trustee

Joseph Molodvan, Attorney for Appellee

David Kozlowski, Attorney for Appellee

Gary D. Bressler, Counsel for United States Fire Insurance Company

Michael R. Morano, Counsel for United States Fire Insurance Company

Respectfully,

/s/ **Kathleen Aiello**

Kathleen Aiello